



# City of Deltona

2345 Providence Blvd.  
Deltona, FL 32725

## Minutes

### Special City Commission Workshop Meeting

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**Monday, March 13, 2017**

**5:30 PM**

**City Commission Chambers**

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#### **1. CALL TO ORDER:**

The meeting was called to order at 5:30 p.m. by Mayor Masiarczyk.

#### **2. ROLL CALL – CITY CLERK:**

**Present:** 8 - Commissioner Alcantara  
Commissioner Bradford  
Commissioner Herzberg  
Commissioner Honaker  
Vice Mayor Nabicht  
Mayor Masiarczyk  
City Manager Shang  
City Attorney Attorney

**Excused:** 1 - Commissioner Soukup

#### **3. PLEDGE TO THE FLAG:**

Mayor Masiarczyk led everyone in the pledge to the flag.

#### **4. BUSINESS:**

##### **A. Continuation of Tabled Meeting Regarding Operating Guidelines & Meeting Rules and Procedures.**

Mayor Masiarczyk introduced the topic for discussion and he stated that it comes down to trust, the roles and the adherence to those roles which is tantamount to being successful. He stated the Commission will go through the document section by section and if the Commission does not get through the document he would like to reconvene again immediately tomorrow or the next day to finish this up.

Mayor Masiarczyk read Section One, Commission Policy Role, and he asked if there were any questions.

Commissioner Alcantara asked for more clarification on number two and Mayor Masiarczyk provided an explanation.

Mayor Masiarczyk read Section One, Maximizing Effectiveness.

**Commissioner Honaker suggested in Section One, Commission Policy Role, to add to paragraph three the following: "3. Commissioners are strongly encouraged to attend both Institute for Elected Municipal Officials (IEMO) basic and advanced elected officials courses, cost will be reimbursed by the City." and the Commission concurred.**

Commissioner Herzberg suggested adding that is strongly encouraged that newly elected Commissioners have a new Commissioner orientation with the City Manager, City Attorney and all department heads.

Vice Mayor Nabicht stated it should not be in the policies and procedures but, instead a directive the Commission provides to the City Manager and that the City Manager is responsible for developing an orientation package for new Commissioners to present to them and it should include all the things mentioned by Commissioner Herzberg. He suggested "Within 60 days of being elected a new Commission would attend the City Manager's orientation program as set forth in such and such."

Mayor Masiarczyk stated this is a directive and does not belong in the policies and procedures. He suggested writing the suggestion down and see where it would fit as the Commission goes through the document.

Mayor Masiarczyk read Section One, Commission-Mayor Role and there were no changes.

Mayor Masiarczyk read Section One, Communication.

Commissioner Alcantara spoke about disagreeing with Commissioners being charged for public records requests, what other cities do, being fair, Commissioners being different than residents, and Commissioners having the duty to look into things.

Vice Mayor Nabicht spoke about the Commission needing to operate as a unit or board and not as individuals. He stated if the request is for an agenda item that is fine but, if a Commissioner has a question and needs records that Commissioner should pay for the records or bring it to the Commission and ask that the Commission approve it to be a sanctioned item that would not need payment for those records.

Commissioner Herzberg left the meeting at 5:47 p.m. and returned at 5:50 p.m.

Commissioner Honaker stated the Commissioner should go through the City Manager regarding the item which will build the relationship between the Commissioner and the City Manager.

Mayor Masiarczyk stated he has never made a public records request and he does not see the need to if the Commission has a good relationship with the City Manager.

Commissioner Alcantara stated that the entire Commission receives a copy of his public records requests and if there are questions the Commission can ask him during a public meeting.

Commissioner Herzberg stated she agrees with the added language but, when there is an inordinate amount of public records request regardless who makes them, the City is grossly understaffed in several departments and the only two options is to one, charge everyone or two, do not charge for public records requests from Commissioners and hire another staff member for the City Clerk's Office but, do not charge anyone then for public records requests.

City Manager Shang stated public records impact the entire City Organization.

Mayor Masiarczyk read Section One, City Manager Performance Accountability.

**After discussion, the Commission concurred in Section One, City Manager Performance Accountability, to add in paragraph four the word "individually" so the sentence reads "4. The City Commission will hold the City Manager accountable for staff performance and individually provide the City Manager with feedback about staff performance in a private setting."**

Mayor Masiarczyk read Section Two, Meetings and he stated that texting during a Commission meeting is prohibited and Commissioner Herzberg asked for clarification does the last sentence in the third paragraph apply to the first sentence of the third paragraph because to her these are two different issues.

Vice Mayor Nabicht stated the first sentence refers to during the course of a meeting and the second sentence refers to prior to a meeting.

Commissioner Herzberg stated how can one tell if a Commissioner is texting, her agenda is on her phone and what if she wants to research something that was said by somebody during the meeting. Mayor Masiarczyk stated according to paragraph three it should not be allowed.

Interim City Attorney Fowler stated sending and receiving texts during the course of the meeting is typically prohibited but, that would not include researching even though many Commissioners do not want Commissioners to do it because it distracts that Commissioner's attention from the meeting.

Commissioner Herzberg asked what about emails and Interim City Attorney Fowler replied emails and text are the same thing and he suggested taking out the word "text" in the first sentence.

Mayor Masiarczyk suggested the sentence read "To ensure the integrity of the public meeting process in open government, Commissioners shall be prohibited from accepting or sending any electronic communication via cell phone or other device during

the course of a City Commission meeting."

Vice Mayor Nabicht suggested to add to the sentence that "this does not include a google search or an internet search." and Mayor Masiarczyk replied "that does not preclude a Commissioner from doing electronic research." and he asked that the Interim City Attorney wordsmith the sentence as necessary.

Interim City Attorney Fowler suggested to put a semicolon after the word "meeting" so the second sentence reads "...government, Commissioners shall be prohibited from accepting or sending any electronic communication via cell phone or other device during the course of a City Commission meeting; electronic research is permitted."

**After discussion, the Commission concurred in Section Two, Meetings, the third paragraph would read "To ensure the integrity of the public meeting process in open government, Commissioners shall be prohibited from accepting or sending any electronic communication via cell phone or other device during the course of a City Commission meeting; electronic research is permitted."**

Interim City Attorney Fowler reminded the Commission that all their text messages and emails are public record.

Commissioner Alcantara suggested in Section Two, Meetings, in the first sentence of the first paragraph to strike everything after "...City Commission Chambers..." since the Commission as a body has already decided to have all its meetings in the Commission Chambers. Mayor Masiarczyk replied it is not needed but, it is there to protect the Commission and he provided an example. Commissioner Herzberg provided a history of the locations of Commission meetings.

Mayor Masiarczyk read Section Two, Meetings, A. Regular Meetings and he asked if in paragraph (1) the Commission wanted to change the number of monthly meetings because as it reads the Commission has to meet twice monthly.

Vice Mayor Nabicht suggested in Section Two, Meetings, Regular Meetings, to add to paragraph (2) the following language "...and should conclude no later than 10:30 p.m. or be continued." Mayor Masiarczyk replied that per Roberts Rules if it looks like the Commission is going to run past the 10:30 p.m. time frame he would ask the Commission if it wants to move on with the meeting past that time frame.

Interim City Attorney Fowler stated the City is doing a disservice to the public who is participating in the meeting by having it run so late, most people are not that sharp at midnight or 1:00 a.m. as they would be at 7:00 p.m. or 8:00 p.m., so it would disadvantage the public and the Commission by having the meetings run late. He agreed with the 10:00 p.m. or 10:30 p.m. time frame unless extended and doing it judiciously.

**After discussion, the Commission concurred in Section Two, Meetings, A. Regular**

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**Meetings, to change paragraph (2) to read "Regular Meetings of the City Commission shall begin at 6:30 p.m. and conclude by 10:30 p.m."**

Mayor Masiarczyk stated that if the meeting is coming up on 10:30 p.m. and the Commission votes not to extend the time, then the question is either table it until the next evening or reschedule later or the general time the following day. Interim City Attorney Fowler suggested the Commission would need to watch out for the general public who cannot be here at 7:00 a.m. meeting and typically the meetings are rolled to the next regularly scheduled meeting where the public is anticipated being here anyway.

Mayor Masiarczyk read Section Two, Meetings, B. Special Meetings and he explained paragraph (1).

Mayor Masiarczyk read Section Two, Meetings, C. Workshop Meetings.

Commissioner Honaker stated in paragraph (1), sentence one, where it states "...shall be for discussion only..." if it is agenda and noticed the Commission can vote on it. Workshops are agenda and noticed so the Commission does not have to refer an item from a Workshop to a regular meeting. He suggested that the Commission be able to "vote" in Workshops and Mayor Masiarczyk disagreed. Vice Mayor Nabicht stated he wants to leave it how it is because Workshops were not set up to be decision making meetings and he explained.

Interim City Attorney Fowler stated the problem is that Workshops have a certain understanding in the public and it is generally considered to be items of discussion and not taking action. The Commission could run the risk that the public would not realize what is going on during the Workshop and what the Commission would be doing is making the Workshops a Special Commission Meeting where it can take action, it is going to confuse people.

Vice Mayor Nabicht suggested in paragraph (1) of Section C. adding that Workshops will not be more than two hours and Mayor Masiarczyk suggested added another sentence at the end that states "Workshop meetings will not exceed two hours."

**After discussion, the Commission concurred in Section Two, Meetings, C. Workshop Meetings, to add a sentence at the end of paragraph (1) to read "Workshop meetings will not exceed two hours."**

Vice Mayor Nabicht suggested eliminate public comments from workshops other than the agenda item and Mayor Masiarczyk suggested eliminating public comments at workshops all together.

Commissioner Alcantara asked if it was common in other cities to not allow public comments and Interim City Attorney Fowler replied he has seen it both ways.

Commissioner Alcantara stated he likes hearing from the public and he believes the

residents should be able to address the Commission at every meeting. Interim City Attorney Fowler stated it can be setup so that public comments are not permitted except by permission of the Commission.

Mayor Masiarczyk stated workshops have been a regular meeting for the public and it was supposed to be and intended to be a roundtable discussion on things that the Commission wants to bring forward to a regular meeting where the public would provide input.

Commissioner Honaker stated the Florida Statute states the members of the public shall be given reasonable opportunity to be heard but, it does not have to be at the meeting the item is being discussed. He also stated another option could be that public comments be two minutes in workshops and four minutes in regular meetings.

Commissioner Herzberg suggested to eliminate the public comment regarding items not on the agenda, she is okay with cutting the time to two minutes on items on the agenda or possibly doing "closing comments" for two minutes at the end of the agenda but, she is not in favor of eliminating the public comments.

Commissioner Bradford agreed with public comments only on agenda items but, to make allowances where needed.

**After discussion, the Commission concurred in Section Two, Meetings, C. Workshop Meetings, to limit general public comment to strictly the agenda item(s) and that it be limited to two minutes.**

Mayor Masiarczyk stated having times like two minutes and four minutes is confusing to him but, time permitted and sticking to the 7:30 p.m. time frame for workshops the Commission can allow quick comments on the discussion at the end of the meeting. He suggested doing three minutes all the time rather than switching back and forth between two and four minutes. He stated the agenda can just reflect public participation and nothing has to go into this document.

**Interim City Attorney Fowler suggested under Section Two, Meetings, C. Workshop Meetings, a new paragraph "(4)" to read "Time permitted, public comment shall be permitted at the end of agenda items only and shall not exceed two minutes." and the Commission concurred.**

Mayor Masiarczyk read Section Two, Meetings, D. Public Hearings and he stated there is a term used by Volusia County "time certain" which is done for contractors and attorneys and he does not want to get into that and there was no support from the Commission.

Mayor Masiarczyk read Section Two, Meetings, (4) Manner of Addressing the Commission.

Commissioner Alcantara suggested changing paragraph "a." to read "Citizen comments shall be allowed on items not on the agenda during Regular Commission Meetings." Mayor Masiarczyk stated he likes having the word "may." and he would like the ability to say yes you have a right to speak but, not about something that is inappropriate.

Commissioner Alcantara asked if the Commission was allowed to limit what a resident can speak about and Interim City Attorney Fowler replied to a point yes, there are only certain things that the Commission can restrict. The Commission can put a time frame on public comment, the resident needs to speak in a fashion so they are not disruptive and do not use profanity but, generally the speaking topic is up to the resident for the four minutes.

Commissioner Alcantara asked if the Commission could over rule the chair and Mayor Masiarczyk stated as a body and Interim City Attorney Fowler agreed.

Commissioner Herzberg stated the words "shall" and "may" legally are the same.

Interim City Attorney Fowler stated if a resident is speaking on an agenda item they have to stay germane to the topic.

Commissioner Bradford suggested moving the public comments to the end of the meeting. Mayor Masiarczyk stated it is good to have public comment at the beginning if it is used for that purpose. He stated Commissioner Comments used to be things like Happy New Year or Merry Christmas and now they are becoming time consuming. He stated the problem is if a resident has a serious concern then they would have to sit through the entire meeting before being able to bring up that concern.

Commissioner Honaker stated that paragraph "b." does not address a group who wants to speak and having the group designate a person to speak for the entire group. Mayor Masiarczyk replied any time a group wants to have a spokesperson they can and the recent issue was an individual who came up to speak for a group and then wanted to speak again on behalf of themselves.

Commissioner Herzberg suggested adding a sentence that states "Accommodations per Florida Statutes shall be made for representatives."

Commissioner Bradford asked what defines a group and Interim City Attorney Fowler replied it is the Mayor's call.

Commissioner Alcantara asked if a person speaks on behalf of a group can they also speak on behalf of themselves and Interim City Attorney Fowler replied if the person is part of the group then it is covered and typically the Mayor would allow for more time.

Commissioner Honaker stated the group needs to be present at the meeting.

Commissioner Herzberg asked if the meeting was getting close to 10:30 p.m. is the

Mayor allowed to ask for a designated person of a group who is present at the meeting to speak on the groups' behalf and Interim City Attorney Fowler replied yes and to extend the time limit for that person to speak because the person would be speaking on behalf of the group. Commissioner Herzberg asked what if the group said no, all the residents want to speak and Interim City Attorney Fowler replied what would happen is the meeting would run to 10:30 p.m. and the public comments would roll to the next meeting.

Commissioner Herzberg suggested adding the following sentence "Provisions will be made for groups at the designation of the chair per Florida Statutes." Interim City Attorney Fowler suggested to add at the end of the sentence "...of the Commission, such as for those speaking on behalf of a group."

Commissioner Herzberg stated the other issue is a person asking to have two four minute time slots to speak, one on behalf of a group and one on behalf of themselves.

Commissioner Bradford stated if a person wants to speak as a representative of a Facebook or Twitter group and only a few of the group's members are present, is that a designated group and Interim City Attorney Fowler replied the members would not necessarily need to be present but, it is a judgement call that the Mayor would make.

Mayor Masiarczyk stated he does not want to limit anyone from speaking but, to be responsible elected officials. He stated he does not think anybody should have a right to continually criticize the Commission but, if the person has suggestions for improvements he is all ears and he is tired of either individually or collectively getting beat-up over silly and personal things that have nothing to do with the Commission. He stated he does not want to put any other language in this paragraph.

Mayor Masiarczyk stated the Commission stopped the discussion at Page 5 of 11, Section Two, Meetings, (4) Manner of Addressing the Commission and for everyone to be prepared at Monday's Regular Commission Meeting to look at a date to continue the meeting to. He also reminded the Commission that it is looking for a section to place the new Commission orientation.

Mayor Masiarczyk opened the public comments.

Santiago Avila, 710 Armadillo Drive, Deltona, read Article I, Section 5, Right to Assemble of Florida Statutes, that citizens have the right to talk, that receiving criticism is part of the job, some of the residents are not being listened too, that a policy and procedure will never supersede a residents constitutional rights and Florida Statutes and respect works both ways.

Mayor Masiarczyk closed the public comments.

Commissioner Alcantara asked regarding the utility Capital Improvement Plan Workshop if there is a time table and he wanted to know what on the list is a need or a want. Mayor Masiarczyk stated that would be a discussion during the budget process.



Commissioner Bradford reminded everyone of a free training to be held on Thursday by Florida League of Cities University for Commissioners from 10:00 a.m. to 11:30 a.m. on effective communication and another from 1:30 p.m. to 3:00 p.m. on presenting to council on the dais.

Mayor Masiarczyk stated on Monday night the Commission needs to have a discussion regarding training, the City pays for one member of the Commission and a guest for League of Cities and everything else is "let your conscious be your guide." He stated what is happening is individual Commissioners are going to individual things which is fine but, it is supposed to be submitted on a request and there is a two week sign up.

#### **5. ADJOURNMENT:**

There being no further business, the meeting adjourned at 7:35 p.m.

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Joyce Raftery, CMC, MMC, CITY CLERK